Supreme Court, U.S.
FILED
SEP 25 2000
CLERK

No. 00-97

IN THE
Supreme Court of the United States

LOIS E. ADAMS, *ET AL.*,

Appellants,

v.

WILLIAM JEFFERSON CLINTON, *ET AL.*

Appellees

On Appeal from
The United States District Court
for the District of Columbia

ADAMS' OPPOSITION TO APPELLEE CLINTON'S MOTION TO DISMISS OR AFFIRM

George S. LaRoche,
Counsel of Record
1 Valley View Avenue
Takoma Park, MD 20912
301-891-3857

TABLE OF CONTENTS

TABLE OF CONTENTS i

TABLE OF AUTHORITIES ii

APPELLEE MISSTATES THE CLAIMS MADE AND RELIEF SOUGHT IN THE CASE 1

THIS CASE WAS PROPERLY BEFORE A THREE-JUDGE DISTRICT COURT UNDER 28 U.S.C. § 2284(a) 3

APPELLANTS HAVE STANDING 5

THE IDENTICAL STATUS OF AREAS AT ISSUE IS CLEAR 6

THE TWENTY-THIRD AMENDMENT IS NO BAR 10

CONCLUSION 10

TABLE OF AUTHORITIES

PROVISIONS OF THE CONSTITUTION

Article I, Section 2 ..... 2, 6

Article I, Section 8, Clause 17 9-10

Amendment XIV, Section 2 2

Amendment XXIII 10

UNITED STATES STATUTES

2 U.S.C. § 2a 6

2 U.S.C. § 2b 6

28 U.S.C. § 2284(a) 3-5

42 U.S.C. § 1973, *et seq.* 4

1 Stat. 129 (1790) 8

9 Stat. 35 (1846) 9

Act. of Aug. 8, 1911, Pub. L. 62-5, ch. 5, 37 Stat. 13 (1911) . 6

THE SUPREME COURT OF THE UNITED STATES

Chicago, R.I. & P Ry. Co. v. McGlinn, 114 U.S. 542 (1885) 7

Fort Leavenworth R. Co. v. Lowe, 114 U.S. 525 (1885) . 7, 8

Franklin v. Massachusetts, 505 U.S. 788 (1992) 4

Gomillion v. Lightfoot, 364 U.S. 339 (1960) 4

Heckler v. Mathews, 465 U.S. 728 (1984) 1

Marbury v. Madison, 5 U.S. (1 Cranch) 137 (1803) 6

National Mutual Ins. Co. of Dist of Col. v. Tidewater Transfer Co., 337 U.S. 582 (1949) 10

O'Donoghue v. United States, 289 U.S. 516 (1933) 10

Orr v. Orr, 440 U.S. 268 (1979) 1

Palmore v. United States, 411 U.S. 389 (1973) 10

S.R.A., Inc. v. Minnesota, 327 U.S. 558 (1946) 7

United States Dep't of Commerce v. Montana, 503 U.S. 442 (1992) 4

United States v. More, 7 U.S. (3 Cranch) 159 (1805) 10

LOWER FEDERAL COURTS

Adams v. Bell, 711 F.2d 161 (D.C. Cir. 1983), *cert. denied*, 465 U.S. 1021 (1984) 2

City of Philadelphia v. Klutznick, 503 F. Supp. 657(E.D. Pa. 1980) 3-4

Dann v. Studebaker-Packard Corp., 288 F.2d 201 (6th Cir. 1961) 2

Federation for American Immigration Reform [*FAIR*] *v. Klutznick*, 486 F. Supp. 564 (D.D.C.), *app. dismissed*, 447 U.S. 916 (1980) 3-4

Stokes v. Adair, 265 F.2d 662 (4th Cir.), *cert. denied*, 361 U.S. 816 (1959) 8

STATE COURTS

Arledge v. Mabry, 52 N.M. 303, 197 P.2d 884 (1948) 7

Commonwealth v. Clary, 8 Mass. 72 (1811) 7

Herken v. Glynn, 151 Kan. 855, 101 P.2d 946 (1940) 7

Lowe v. Lowe, 150 Md. 592, 133 A. 729 (1926) 7

Opinion of Justices, 1 Metc. 580, 42 Mass. 580 (1841) 7

Royer v. Bd. of Election Supervisors,
231 Md. 561, 191 A.2d 446,
cert. denied, 375 U.S. 921 (1963) 7

Sinks v. Reese, 19 Ohio St. 306 (1869) 7

State ex rel Wendt v. Smith, 63 Ohio L. Abs. 31,
103 N.E.2d 822 (1951 App.) 7

In re Town of Highlands, 48 N.Y.St.Rpt. 795,
22 N.Y.Supp. 137 (Sup. Ct. 1892) 7, 8

U.S. GOVERNMENT REPORTS AND RELATED MATERIAL

119 Cong. Rec. 33,647, 33,648 (1973)
(Rep. Ron Dellums (D-Calif.)) 9

The Federalist No. 43 (James Madison)
(reprinted in 2 Bernard Bailyn, ed.,
The Debate on the Constitution (1993)) 7-8

Jurisdiction Over Federal Areas Within the States; Report of the Interdepartmental Committee for the Study of Jurisdiction over Federal Areas Within the States; Part I: The Facts and Committee Recommendation (1956) 7

Jurisdiction Over Federal Areas Within the States; Report of the Interdepartmental Committee for the Study of Jurisdiction over Federal Areas Within the States; Part II: A Text of the Law of Legislative Jurisdiction (1957) 7

U.S. Dep't of Justice, Land and Natural Resources Division, *Federal Legislative Jurisdiction* (1969) 7

OTHER AUTHORITIES

Kenneth R. Bowling, *The Creation of Washington, D.C.; the Idea and Location of the American Capital* (1991) . 8

Edward C. Boynton, *History of West Point* (1871) 8

David E. Kyvig, *Explicit and Authentic Acts, Amending the Constitution, 1776-1995* (1996) 10

Laurence H. Tribe, *American Constitutional Law* (2d ed., 1988) 9

APPELLEE MISSTATES THE CLAIMS MADE AND RELIEF SOUGHT IN THE CASE

Appellee William Jefferson Clinton in his official capacity as President of the United States files a *Motion to Dismiss or Affirm* ("CMDA") in which he asserts that the key question in this case is whether equal protection requires Congress to admit the District of Columbia as a State or make it part of a State (CMDA I, 4, 9, 13). As interesting as this question is, it *isn't* the question presented in *Adams*. *Adams* asks whether equal protection requires Congress to treat all people who reside in places where Congress has plenary powers in substantially the same way with regard to inclusion in or exclusion from apportionments of congressional districts (at least absent compelling governmental reasons to discriminate and absent narrowly tailored distinctions between places) (Jurisdictional Statement ("JS") at i).

The question presented in *Adams* could be answered in the affirmative, yet *not* be a harbinger of the District's statehood or unification with a state, for Congress could take action which would result in *exclusion* of all similarly-situated people from apportionments of congressional districts. *See Heckler v. Mathews*, 465 U.S. 728, 737-40 (1984); *Orr v. Orr*, 440 U.S. 268, 272 (1979). District residents would then be treated equally to all similarly-situated people, and the claim presented before this Court would be at an end.

Appellee also mischaracterizes the injunctions sought. *Adams* doesn't seek injunctions requiring Appellee "to transmit to Congress an apportionment of one Representative for each State," nor requiring Appellees House Officers to "certify, enroll, and admit to the House floor at most one Representative for each State" (CMDA 5). The *Complaint* filed in this case (*see* JS App. F) is clear: *Adams* demands injunctions that Appellees *not transmit* apportionments of congressional districts which reflect *exclusion* of District residents and *inclusion* of all similarly-situated people. The injunctions demanded are purely prohibitory, not mandatory.

The additional provisions suggested in the *Complaint* merely reflect three facts. First, the Constitution requires an

apportionment of no less than one Representative per State. U.S. Const., Art. I, § 2. *Adams* don't ask the Court to ignore that requirement, much less to order Appellees to violate it. So *Adams*' demands reflect the constitutional mandate.[1]

Second, to be included in apportionments of representation in Congress under the plain terms of Article I, § 2, a person must be a citizen of a State. Unless the plain terms of the Constitution are ignored or it's amended, residents of the District of Columbia can be included in apportionments of congressional districts only through either of two avenues: the place where they reside might be admitted as a state or might be unified with an existing state. Inclusion of language reflecting these facts, therefore, merely adds realistic "sunset clauses" to the injunctions requested.

Finally, plaintiffs are entitled to ask a court to issue injunctions framed in a form most desirable to them, though the Court has the discretion to grant them something less desirable. *See Dann v. Studebaker-Packard Corp.*, 288 F.2d 201, 216 (6th Cir. 1961) ("a plaintiff is entitled to any relief appropriate to the facts alleged in the bill and supported by the evidence, even where [the plaintiff] has not prayed for such relief."); *Adams v. Bell*, 711 F.2d 161, 203 (D.C. Cir. 1983), *cert. denied*, 465 U.S. 1021 (1984); JS App. F at 28, ¶ E (requesting "other relief"). Thus, the Court could agree with *Adams* on every legal principal, and then order Appellees simply not to report any apportionment which includes all persons similarly situated to District residents, but which doesn't include District residents. Appellees could then avoid violating Appellants' rights to equal protection by reporting apportionments which don't include anyone now or ever under Congress' plenary powers. Appellants wouldn't prefer this course of action, but the equal protection claims presented in their case would be at an end.

---

[1] Also, Section 2 of Amendment Fourteen provides that "the basis of representation" shall be reduced for a jurisdiction which denies the right to vote to a segment of its population. While not clearly dispositive, this is suggestive of the scope of a court's power.

THIS CASE WAS PROPERLY BEFORE A THREE-JUDGE DISTRICT COURT UNDER 28 U.S.C. § 2284(a)

Appellee argues that this case was not properly before a Three-judge District Court because it doesn't fall within "the meaning of" 28 U.S.C. § 2284(a) (CMDA 9-12), but Appellee provides no clear–much less cogent–explanation of "the meaning" of the Section. Therefore, we're left with the plain language: Section 2284(a) provides a Three-judge District Court to hear "challeng[es to] the constitutionality of apportionment of congressional districts[.]" *Adams* has shown that the present apportionment of congressional districts *includes* all persons who are or ever were under the same powers of Congress as residents of the District, while the latter remain *excluded* from that apportionment. This violates Appellants' rights to the equal protection of the laws under the Constitution (JS 21-27). Therefore, *Adams* was properly before a Three-judge District Court.

Appellee Clinton states, however, that *Adams* "do[es] not contend that the current apportionment of any congressional district is unconstitutional" (CMDA 10), but Section 2284(a) doesn't require a challenge to a *particular* district or boundary, and the contention is simply incorrect on the facts (*see* JS App. F at ¶¶ 68-69). And since the allocation of seats among *all* congressional districts reflects the fact that Congress allows all residents of all federal enclaves and the former portion of the District south west of the Potomac River and of all continental territories to be citizens of the States and thus to be included in calculating those apportionments, then the current apportionment of *all* congressional districts (note that Section 2284(a) uses the *plural*) is at issue here.

Neither of the cases cited by Appellee as authority for the proposition that this case was not a Section 2284(a) case, *City of Philadelphia v. Klutznick*, 503 F. Supp. 657(E.D. Pa. 1980), and *Federation for American Immigration Reform [FAIR] v. Klutznick*, 486 F. Supp. 564 (D.D.C.), *app. dismissed*, 447 U.S. 916 (1980) (CMDA 10), augurs against *Adams*' presentation of their case to a Three-judge District Court. Both *City of*

Philadelphia and *FAIR* concerned challenges to the census alone as a predicate to a *future* apportionment, while *Adams* concerns a challenge to the present (final) apportionment itself. Thus *Adams* falls under Section 2284(a) according to *City of Philadelphia* and *FAIR*, for *Adams* presents a legal challenge "to the final product–the apportionment–and not merely to the composition of an ingredient–the census–used in the product's manufacture." 503 F.Supp. at 658. And as Appellee implicitly admits by citing *Franklin v. Massachusetts*, 505 U.S. 788 (1992), and *United States Dep't of Commerce v. Montana*, 503 U.S. 442 (1992) (CMDA 10-11), challenges to decisions which alter the composition, size, or configuration of populations correlated with geographical districts *are* properly heard under Section 2284(a), for these decisions can be binding upon actual apportionments.[2]

Appellee also makes a quasi-standing argument that *Adams* wasn't properly before a Three-judge District Court because it presents no more than a plea which could "lead to" a change in apportionment (CMDA 10). This argument overlooks two points. First, Section 2284(a) doesn't require a plaintiff to demand a particular reapportionment. Second (related to the first point), apportionment is primarily for the legislature, so an injunction barring an apportionment which violates constitutional rights is properly followed by handing the matter back to the legislature. Thus, *Adams* doesn't seek a particular, final form of reapportionment from the Court, since that particular, final form is a political matter for the residents of the District and for Congress.

Finally, Appellee says "appellants acknowledged" that they "*do not* come to court demanding 'representation' in Congress[,]" (CMDA 11, quoting Appellants, below), asserting this means the case did not present a demand for

---

[2] For comparison, it's probable that a decision to wholly exclude an all-black population from apportionment, *see Gomillion v. Lightfoot*, 364 U.S. 339 (1960), would be targeted by the Department of Justice, 42 U.S.C. § 1973 *et seq.*, even if the formal announcement of the eventual apportionment didn't mention race on its face.

reapportionment under Section 2284(a). But Section 2284(a) does not say that a Three-judge District Court is only available to plaintiffs who demand a *specific* reapportionment ("representation" in congress), and Appellants' statement is taken out of context at any rate; it was to rebut Appellee Clinton's attempt below (like here) to treat the claims in *Adams* as if they were interchangeable with those in *Alexander v. Daley, on appeal sub non Alexander v. Mineta*, No. 99-2062 (*see* JS 13-19).[3]

APPELLANTS HAVE STANDING

Appellee argues that Appellants lack standing because the relief sought would not redress their injuries (CMDA 13-16), but this assertion is based on the mischaracterization of *Adams*' claims discussed above (*see* pp. 1-2). *Adams* doesn't ask the Court to order Congress to do anything at all. *Adams* asks the Court to *restrain* Appellees as the agents charged by Congress to calculate, execute, or enforce apportionments, insofar as those apportionments violate constitutional mandates of equal treatment. Appellee's arguments that such restraint would not redress *Adams*' "alleged injuries" (CMDA 14-15) reflects *Appellee's* confusion of political goals with legal goals. Both *Adams* and Appellee may have political goals, but their respective political goals do not dispose of the *legal merits* of this case. The fact that *Adams*' legal claims and the limited legal remedies sought in this suit might not convey *Adams* to the political goals imputed to them by Appellee doesn't mean Appellants lack standing.

---

[3] Appellee also suggests Appellants have "substantial doubt" whether their claim was properly before a three-judge court (CMDA 11 n.6), but the text Appellee cites in support of this attribution (JS 21-27, 30) is also taken out of context. It illuminated the same fact Appellee himself admits, that "it is not entirely clear whether the three-judge court rejected the claim that [*Adams*] raises here on the merits" (CMDA 12 n.7) and to acknowledge that the Three-judge Court's *failure* to properly address the merits of a case properly before it could leave *this* Court with a sense that *Adams* should be *remanded to* the Three-judge District Court to address it.

Also, Appellee argues that "the requested injunctions would require the President and the House Officers to violate the Constitution" (CMDA 15). This is incorrect. As discussed above (pp. 1-2), Article I, § 2 of the Constitution requires that there *be* an apportionment, but it doesn't require 435 Representatives, Act. of Aug. 8, 1911, Pub. L. 62-5, ch. 5, 37 Stat. 13 (1911), nor that they be allocated according to "the method of equal proportions," 2 U.S.C. §§ 2a(a) & 2b, nor does it require that *some* people who reside in places where Congress has or has had the power of "exclusive legislation" be *included* in those apportionments while others under identical powers be *excluded*, *see* JS 4-11, 21-27. Like the decisions that 435 Representatives should be allocated under a particular mathematical formula, the decision to treat some people *one* way and to treat identically situated people *another* way reflects legislative policy–not constitutional mandate, so it's subject to judicial review. *Marbury v. Madison*, 5 U.S. (1 Cranch) 137, 166, 170, 177 (1803).

And finally, Appellee Clinton argues that the relief sought by *Adams* is beyond the power of the courts, because "the courts cannot enjoin the President to perform a non-ministerial task" (CMDA 16 n.11). As with the rest of Appellee's standing arguments, this argument is based on misstatement of *Adams*' demands. *Adams* doesn't ask the Court to order the President *to perform* an action; *Adams* asks for an order that the President *not perform* an action. Since 2 U.S.C. §2a(a) confers on the President a *non-discretionary* duty to make a simple mathematical calculation according to a specified formula, the President's constitutional roles and Separation of Powers are not jeopardized.[4] A prohibitive injunction, in this situation, is within the Court's power.

THE IDENTICAL STATUS OF AREAS AT ISSUE IS CLEAR

Appellee argues that *Adams*' equal protection claim "is fundamentally inconsistent with the text and structure of the

---

[4] For the purposes of this case, *Adams* wouldn't question the hypothesis that a court never can order a President *to do* something.

Constitution, two hundred years of historical experience, and the purpose of the District Clause" (CMDA 18ff). Appellee argues that the District/Enclaves Clause "distinguishes between the District and the enclaves in terms of their relationship to the States[,]" suggesting that the Clause defines enclaves as always parts of States, while "contemplating a complete severance of the District from those States" (CMDA 19). Though Appellee correctly quotes the Constitution, he ignores the consistent doctrine expressed in the federal and state courts for three-quarters of the nation's history construing those words[5] and he ignores the reports of the blue-ribbon *Interdepartmental Committee for the Study of Jurisdiction over Federal Areas Within the States*, chaired by an Assistant [U.S.] Attorney General (JS 6, 24), and he ignores reports generated within the Department of Justice itself, *e.g.*, U.S.D.O.J., Land and Natural Resources Division, *Federal Legislative Jurisdiction* (1969) (JS 6, 17, 24), all of which recite and prove the history recited by *Adams* (JS 4-9).

Appellee quotes James Madison in *The Federalist No. 43* to show that the Framers intended to sever the District from the States (CMDA 20), but in the very next paragraph following the language Appellee quotes, Madison declares, "[t]he necessity of a like authority over forts, magazines &c. established by the general government is not less evident[;]" like the District, "they should be exempt from the authority of the particular State" from which they were to be taken. *The Federalist No. 43* (James Madison) (reprinted in 2 Bernard

---

[5] *See also Royer v. Bd. of Election Supervisors*, 231 Md. 561, 191 A.2d 446, *cert. denied*, 375 U.S. 921 (1963); *State ex rel Wendt v. Smith*, 63 Ohio L. Abs. 31, 103 N.E.2d 822 (1951 App.); *Arledge v. Mabry*, 52 N.M. 303, 197 P.2d 884 (1948); *Herken v. Glynn*, 151 Kan. 855, 101 P.2d 946 (1940); *Lowe v. Lowe*, 150 Md. 592, 133 A. 729 (1926); *In re Town of Highlands*, 48 N.Y.St.Rpt. 795, 22 N.Y.Supp. 137 (Sup. Ct. 1892); *Chicago, R.I. & P Ry. Co. v. McGlinn*, 114 U.S. 542 (1885); *Fort Leavenworth R. Co. v. Lowe*, 114 U.S. 525 (1885); *Sinks v. Reese*, 19 Ohio St. 306 (1869); *Opinion of Justices*, 1 Metc. 580, 42 Mass. 580 (1841); *Commonwealth v. Clary*, 8 Mass. 72 (1811).

Bailyn, ed., *The Debate on the Constitution*, 72 (1993)).[6]

Appellee also argues that federal enclaves are necessarily "temporary in nature" (CMDA 23), citing *S.R.A., Inc. v. Minnesota*, 327 U.S. 558 (1946), and *Fort Leavenworth R.R. v. Lowe*, 114 U.S. 525 (1885). This is not generally true.[7] The enclave at issue in *S.R.A.* (land for a post office building) was "temporary," but other enclaves are quite permanent, including portions of Fort Leavenworth. *See, e.g., Stokes v. Adair*, 265 F.2d 662 (4th Cir.), *cert. denied*, 361 U.S. 816 (1959).

---

[6] The court below also discussed "original intent" behind the District/Enclaves Clause, saying it arose in response to (what many call) the "Philadelphia mutiny" (JS App. A-24; C-7-9). As authority for this story, the Court cited the definitive history of the event, *The Creation of Washington, D.C.* (1991) by Dr. Kenneth Bowling (though his book shows that the "mutiny" was a contrived confrontation, used to illustrate a preconceived federal purpose: to insulate *all* federal functions, geographically, from the powers of States. Dr. Bowling executed two affidavits in support of *Adams*' case (both are in the Record) and in one, he states, "[t]he Enclaves Clause . . . was specifically intended by the Framers of the Constitution to eliminate any possibility that the legislative power of Congress over the federal enclaves was to be concurrent with that of the ceding states or other political forces."

[7] West Point, for instance, is one of our oldest enclaves. Though occupied since before the Revolution and expanded starting in 1790 to facilitate the future military academy, 1 Stat. 129 (1790), formal, exclusive jurisdiction wasn't ceded to Congress until 1826. Edward C. Boynton, *History of West Point*, 1-12 (1871). Legally, for the majority of its existence, West Point wasn't part of New York State.

> We all know that the District of Columbia was ceded by the state of Maryland to the United States, and no resident of the District votes anywhere; and of course *a resident on the West Point property occupies the same relation to the government and the state of New York as a resident of the District of Columbia does to the state of Maryland.*

In re Town of Highlands, 48 N.Y.St.Rpt. 795, 22 N.Y.Supp. 137, 140 (Sup. Ct. 1892) (emphasis added). This situation has changed as a result of the same pattern outlined by *Adams* (JS 6-7), so all permanent residents of West Point are now included in apportionments of congressional districts for the State of New York.

Appellee also argues Congress' actions are subject only to "rational basis" testing, not "strict scrutiny" (CMDA 21-23), but Appellee gives no reason for this, other than to assert that Congress "*has*" a "rational basis" for disparate treatment of the District. Appellee's argument isn't supported by the facts, however. The public record reveals that Congress has *no* reason for continuing disparate treatment of all portions of the District outside the National Capital Service Area,[8] and the Record in this case shows that there is no federal function in Appellants' residences or places of work.[9] Thus, there are *no* reasons for the disparate treatment, even assuming that strict scrutiny doesn't apply. But strict scrutiny *does* apply, for among the rights burdened by the disparate treatment are *fundamental* rights, such as those to vote, which could be exercised if the *Adams* were included in existing apportionments of congressional districts, so this case falls firmly in the "strict scrutiny" category of equal protection cases. *See* Laurence H. Tribe, *American Constitutional Law*, 1454, 1463-65 (2d ed., 1988).

In sum, all Appellee's arguments here boil down to the unsettling suggestion that the Constitution does not apply to

---

[8] The NCSA "separate[s] out and protect[s] the Federal interest . . . [and] mean[s] constitutionally that the Congress would have no legitimate responsibility whatsoever outside of" the NCSA. 119 Cong. Rec. 33,647, 33,648 (1973) (Rep. Ron Dellums (D-Calif.)).

[9] Appellants might coin the same language Congress used in the Act retroceding "Alexandria County" to the State of Virginia in 1846, 9 Stat. 35, which Appellee Clinton quotes (CMDA at 23-24):

> no more territory ought to be held under the exclusive legislation given to Congress over the District which is the seat of the General Government than may be necessary and proper for the purposes of such a seat; and * * * experience hath shown that the portion of the District of Columbia ceded to the United States by the State of [Maryland and lying outside the National Capital Service Area] has not been, nor is ever likely to be, necessary for that purpose[.]

Appellee didn't submit a shred of evidence to the court below in support of his arguments otherwise, nor has Congress made any specific and compelling finding otherwise *to be* submitted.

the District of Columbia,[10] that Article I, § 8, cl. 17 makes the District "extraterritorial" to the Constitution. But it's clear that the Constitution *does* apply here and Congress may not violate it, howsoever extensive its powers under the District/Enclaves Clause. *Palmore v. United States*, 411 U.S. 389, 397-98 (1973); *National Mutual Ins. Co. of Dist of Col. v. Tidewater Transfer Co.*, 337 U.S. 582, 602 (1949); *O'Donoghue v. United States*, 289 U.S. 516, 539 (1933).

THE TWENTY-THIRD AMENDMENT IS NO BAR

In closing, Appellee Clinton argues that the Twenty-third Amendment locks the District into a status permanently "distinct from that of a State" (CMDA 24-25). But the history of the Amendment indicates it doesn't reflect reasoned policy-making so much as almost accidental tinkering, *see* David E. Kyvig, *Explicit and Authentic Acts, Amending the Constitution, 1776-1995*, 349-55 (1996), and (more to the point) there's no authority for Appellee's assumption that the Amendment shields Congress from its obligations to maximal respect for Appellants' rights to equal protection, guaranteed *elsewhere* in the Constitution; those rights endure.[11]

CONCLUSION

For these reasons, Appellee Clinton's Motion to Dismiss or Affirm should be *denied* and jurisdiction over this case noted.

Respectfully submitted,
George S. LaRoche,
Adams' Counsel of Record

---

[10] The Department of Justice has taken this position since the District's earliest days. *See United States v. More*, 7 U.S. (3 Cranch) 159, 171 (1805) (quoting the U.S. Attorney in argument: "When legislating over the District of Columbia, Congress are bound by no constitution. If they are, they have violated it by not giving us a republican form of government.")

[11] *See also* [*Adams'*] *Reply to House Officers' Opposition to Plaintiffs' Motion for Summary Judgment* (March 8, 1999) at 5-7.